IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No.1190-SB of 1999

Baldev Singh **...**Appellant

VERSUS

Union Territory, Chandigarh **...**Respondent

Decided on : July 25, 2007

CORAM : HON'BLE MR.JUSTICE A.N.JINDAL

Present: Mr.Sandeep Mann, Advocate
for appellant Baldev Singh.

Mr.Hemant Bassi, Advocate
for Union Territory, Chandigarh

A.N.JINDAL, J.-

Assailed in this appeal is the judgment dated 21.8.1999, passed by Special Judge, Chandigarh convicting Baldev Singh – accused/appellant (hereinafter referred to as the appellant) under Section 15 of the Narcotics Drugs and Psychotropic Substances Act, 1985(for short the Act) and sentencing him to undergo rigorous imprisonment for 10 years and to pay fine of Rs.1 lac and in default of payment of fine, to further undergo rigorous imprisonment for one year.

In nutshell, the allegations are that on 30.5.1996, when Sub Inspector Balram along with other police officials was present near Kissan

Bhawan, Sector-35-A, Chandigarh, intercepted the appellant on secret information that he was carrying contraband. He called DSP Baldev Singh and after completing all the formalities including serving of notice on the appellant and obtaining his consent, searched the accused, whereupon, he was found carrying five kilograms of poppy husk, in his bag, out of which 500 grams was taken out as sample. The sample and the remnant were sealed separately with the seal bearing impression `BR' and taken into possession vide recovery memo Ex.PB, rough site plan Ex.PD was prepared and ruqa Ex.PC/1 was sent to the Police Station, upon which formal First Information Report Ex.PC/2 was registered.

The completion of the investigation was followed by the presentation of the report under Section 173 of the Code of Criminal Procedure. The appellant was accordingly charged under Section 15 of the Act, to which he pleaded not guilty and claimed trial.

During trial, the prosecution examined ASI Yash Pal Singh (PW1), Jasbir Kumar (PW2), DSP Baldev Singh (PW3), HC Mohan Lal (PW4), Jaswant Singh, Head Draftsman (PW5), Sub Inspector Surinder Kumar (PW6), Inspector Ashwani Kumar (PW7), HC Amaro Singh (PW8) and Constable Som Nath (PW9).

The appellant denied all the incriminating circumstances appearing against him during his statement under Section 313 of the Code of Criminal Procedure and pleaded his false implication in the case.

Ultimately, the trial ended in conviction. Hence, this appeal.

Without assailing the judgment of conviction, Mr.Sandeep Mann, the learned counsel appearing for the appellant has straightway sought indulgence of this court for extending some leniency towards the appellant in the matter of sentence, keeping in view the longevity of the proceedings and petty recovery of the contraband.

Heard. The appellant is the sole bread-winner of his family, consisting of his old ailing mother and younger sisters. He might have settled in life by now and there are all chances of his coming to the main stream. Sword of domacles remained hanging over his head during the pendency of the trial and also the appeal, which has been pending since 1999. He has already undergone three years of the substantive sentence. Though, the longevity of the trial and pendency of the present appeal, may not be a cause to exonerate the appellant for such a grave offence, yet it could be taken as a mitigating circumstance for reduction of the sentence.

Consequently, the appeal is dismissed with the modification that the sentence of rigorous imprisonment is reduced to that already undergone by the appellant, without alteration in the fine.

(A.N.JINDAL)
JUDGE

The 25th day of July, 2007
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To be Referred to Reporter - **Yes/ No**